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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NATIONAL TPS ALLIANCE, MARIELA
GONZÁLEZ, FREDDY JOSE ARAPE RIVAS,
M.H., CECILIA DANIELA GONZÁLEZ
HERRERA, ALBA CECILIA PURICA
HERNÁNDEZ, E.R., HENDRINA
VIVAS CASTILLO, A.C.A., SHERIKA BLANC,
VILES DORSAINVIL, and G.S.,

Plaintiffs,

vs.

KRISTI NOEM, in her official capacity as
Secretary of Homeland Security, UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY, and UNITED STATES OF
AMERICA,

Defendants.

Case No. 3:25-cv-01766-EMC

**PLAINTIFFS' EMERGENCY REQUEST
TO EXTEND BRIEFING SCHEDULE FOR
DEFENDANTS' MOTION TO STAY**

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1 Plaintiffs respectfully request a short extension of the briefing schedule on Defendants’
 2 motion to stay. ECF No. 95. Defendants filed a motion to stay and motion to expedite briefing at
 3 approximately 7:00 p.m. PST on April 1, 2025 (ECF Nos. 95–96), and the Court ordered expedited
 4 briefing at approximately 8:14 p.m. PST, setting a deadline of April 2, 2025 for Plaintiffs to oppose
 5 the motion to stay (ECF No. 97). For four overarching reasons, Plaintiffs should have at least until
 6 Wednesday, April 9, to oppose the motion to stay.

7 *First*, Plaintiffs agree this case should move forward in an expedited fashion to protect the
 8 interests of over 1 million Venezuelans and Haitians. But not at the expense of a full and fair
 9 opportunity to brief critical issues that Defendants will press on appeal. As the parties demanding
 10 emergency relief in the form of expedited briefing, Defendants must make a “threshold showing
 11 regarding irreparable harm,” absent which emergency relief “may not issue, regardless of the
 12 [movant]’s proof regarding the other stay factors.” *See Doe #1 v. Trump*, 957 F.3d 1050, 1058 (9th
 13 Cir. 2020) (internal quotation and citation omitted). They have failed to do so. The motion for
 14 expedited briefing consists of a solitary paragraph. The sole justification for expedited briefing is
 15 that the order is intended to take effect. ECF No. 96. Defendants present no evidence or argument as
 16 to what irreparable harm would befall Defendants if the Court decides their motion for stay on a
 17 slightly less compressed schedule. Nor does the underlying motion seeking a stay point to imminent
 18 irreparable harm. Defendants merely argue that irreparable harm arises whenever the Executive
 19 branch wants to enforce its preferred reading of a statute over the meaning intended by Congress.
 20 ECF No. 95 at 7. Such a “perceived institutional injury is not ‘irreparable,’” especially when the
 21 only question to be decided at this moment is one of scheduling, and “the core of this dispute”
 22 ultimately could be resolved on questions of statutory construction. *Doe #1*, 957 F.3d at 1059.

23 *Second*, the current briefing schedule deprives Plaintiffs of an opportunity to review and
 24 incorporate the administrative record—which the Court has ordered produced by Monday, April 7—
 25 into their opposition. ECF No. 93. Defendants rely extensively on the challenged decisions as
 26 purported evidence of what the Secretary considered to accuse the Court of overstepping its
 27 authority when weighing the equities. *See, e.g.*, ECF No. 95 at § II.A. The administrative record
 28 should put to rest whether (as Plaintiffs contend) the Federal Register contains assertions that

amount to pabulum and pretext devoid of any support, or (as Defendants suggest) the Secretary and her subordinates considered facts and evidence before making the challenged decisions. The administrative record in *Ramos* uncovered damning evidence of pretext, and Plaintiffs have every reason to believe this record will prove equally troubling. Both this Court and reviewing courts would benefit from Defendants' impending production of the administrative record.

Third, Defendants should not be allowed to use their request for an emergency briefing schedule to excuse their unwillingness to abide by the Court's order. Despite looming deadlines, Defendants have refused to take *any* meaningful steps to comply with this Court's order. In three emails between March 31 and April 1, Plaintiffs made clear the urgency of implementing this Court's order before the end of today, given that up to 350,000 TPS holders may otherwise be unable to establish employment authorization on April 3. *See* Ahilan Arulanantham Decl., Exs. 1–3.¹ Many also are at risk of losing their drivers' licenses.² But Defendants have provided no response to repeated requests that they acknowledge the Court's decision by today (although their counsel expressed "hope" that Defendants might do so), simply by updating their website. Yet as of this morning, even though there is no stay of this Court's decision, Defendants' website still publicly claims that "TPS and related benefits associated with the 2023 designation will end on April 7, 2025,"³ endangering work authorizations for up to 350,000 TPS holders starting *tomorrow*. Defendants also have stonewalled Plaintiffs' efforts to meet and confer about the administrative record or otherwise comply with the Court's case management directives. Defendants should not be

¹ While Secretary Noem's February 5 Federal Register Notice terminates TPS for 2023 Venezuela registrants on April 7, these TPS holders have existing employment authorization documents that only extend employment authorization through April 2. This is because Defendants failed to automatically extend work authorization for TPS holders for the five days between the end of the prior TPS designation for 2023 Venezuela registrants and the date of TPS termination in Secretary Noem's February 5 termination notice, even though the TPS statute plainly states that "[w]ork authorization . . . shall be effective throughout the period the alien is in temporary protected status." 8 U.S.C. § 1254a(a)(2); *see also id.* § 1254a(a)(1)(B) (Secretary "shall authorize" TPS holders to work).

² Plaintiffs have already uncovered evidence of one jurisdiction with a significant population of Venezuelan TPS holders that appears to be taking the position that driver's licenses will expire notwithstanding the Court's order. *See* Ahilan Arulanantham Decl., Ex. 3.

³ USCIS, "Temporary Protected Status Designated Country: Venezuela," <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela> (last visited, April 2, 2025).

1 rewarded for their recalcitrance with an expedited briefing schedule, especially when they have
 2 never suggested that it would be burdensome to produce the administrative record. Indeed,
 3 Defendants may take more time to update their website about this Court's order than the Secretary
 4 took to vacate TPS. Defendants must not be rewarded for refusing to implement this Court's order
 5 even as they seek to challenge it.

6 *Finally*, Plaintiffs should be allowed more than a day to identify and develop arguments
 7 warranting further analysis in light of the Court's order. In particular, Defendants' stay motion rests
 8 heavily on Section 1252(f)(1), but as this Court's order notes, "No court has yet to hold that
 9 §1252(f)(1) applies to §1254a" ECF No. 93 at 15 & n.5. Plaintiffs are examining this issue
 10 closely in light of the Court's ruling, and should be allowed more than a day to research what may be
 11 a potential alternative ground for opposing the motion to stay.

12 Therefore, Plaintiffs respectfully request that Defendants remain subject to the April 7
 13 deadline to produce the complete administrative record for the two challenged Venezuelan TPS
 14 decisions, and that Plaintiffs be afforded until April 9 to submit their opposition, informed by the
 15 administrative record. Plaintiffs take no position on the timing of a ruling by this Court on the
 16 motion to stay, because Defendants have provided no exigency that would require the Court to rush
 17 consideration of the administrative record and further briefing.

18 Date: April 2, 2025

Respectfully submitted,

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